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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SEAN MCCLINTOCK, et al.,

Plaintiffs,

vs.

CITY OF FOUNTAIN VALLEY; and
DOES 1-10, inclusive,

Defendants.

Case No.: 8:25-cv-01381-MRA-ADS
[Honorable Monica Ramirez Almadani]

**JOINT RULE 26 SCHEDULING
CONFERENCE REPORT**

Date: September 29, 2025
Time: 1:30 a.m.
Courtroom: 9B

Original Complaint
Filed: June 26, 2025

Answer to Complaint
Filed: July 30, 2025

Final Pretrial Conference
(Proposed): September 28, 2026

1 **COME NOW ALL THE PARTIES JOINTLY AND STATE AS FOLLOWS:**

2 The parties herewith submit this joint scheduling conference report joined by all
3 the parties pursuant to F.R.C.P. Rule 26 and the Court's Order (Doc. 16).

4 **1. Statement of the Case**

5 **PER PLAINTIFF:** On January 23, 2025, Osean McClintock, Decedent,
6 was near San Mateo Street and El Corazon Avenue in Fountain Valley. While at
7 this location, the involved City of Fountain Valley police officer discharged his
8 firearm at Decedent, striking him, causing serious physical injury and eventually
9 killing him. Decedent never pointed a gun at anyone, he did not shoot or seriously
10 physically injure anyone during this incident, nor did he attempt to do so.
11 Moreover, Decedent never punched or attempted to strike any of the involved
12 officers and the involved officers had no information that anyone had been
13 seriously physically injured. Decedent suffered from a serious pre-existing
14 medical condition and was probably having a mental health crisis during the
15 incident. It should have been apparent to an objectively reasonable officer, that
16 Decedent that may have been experiencing a mental health crisis prior to the
17 shooting. There were less than lethal alternatives to using deadly force against
18 Decedent, such as a taser, pepper spray or utilizing cover if they believed Decedent
19 was armed, which were available to the involved officers. Decedent did not pose
20 an immediate or imminent threat of death or serious physical injury to either the
21 involved officers or any other person at the time of the shooting. Decedent was not
22 about to kill or cause serious bodily injury to anyone when he was fatally shot by
23 the involved officers.

24 Plaintiffs' main claims are for excessive and unreasonable use of deadly force
25 under both the Fourth Amendment and state law battery. Plaintiffs also bring claims
26 for negligence, including pre-shooting negligent tactics, actions and inactions and
27

1 for interference with familial relationship under the Fourteenth Amendment and
2 violation of the Bane Act under state law.

3 **PER DEFENDANTS:**

4 This civil action arises out of an officer-involved shooting incident that
5 occurred on January 23, 2025, between Decedent Osean McClintock and officers
6 with the Fountain Valley Police Department (“FVPD”). Officers responded to a call
7 reporting a man who was attempting to aggressively open the vehicle door of a
8 woman who had just picked up her children from Masuda Middle School. When an
9 officer tried to calmly detain Decedent, Decedent became physically combative and
10 fled the area. After a foot pursuit, he confronted a female responding officer, who
11 had just returned from maternity leave after having her first child, and gained control
12 of the officer’s duty firearm by wrestling it from her hands and pulling her from the
13 driver’s seat of her patrol vehicle.

14 Decedent pointed the gun at the female officer, who pleaded with him to not
15 shoot her, while another officer issued multiple commands to Decedent to put the
16 gun down, which Decedent ignored. Decedent then attempted to flee the scene, still
17 armed with her duty weapon, by getting into the driver’s seat of the female officer’s
18 patrol vehicle. Perceiving that Decedent posed an imminent threat of great bodily
19 injury or death—where he could easily continue using the duty weapon, any other
20 firearms and/or devices stored within the patrol vehicle, or the patrol vehicle itself
21 as a deadly weapon—the officer fired his service gun at the patrol vehicle.

22 Plaintiffs are Decedent’s parents, who assert claims under Section 1983 and
23 related state law, predicated on their contention that the officer’s use of force was
24 objectively unreasonable.
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1 **2. Subject Matter Jurisdiction**

2 This is a civil rights lawsuit pursuant to 42 U.S.C. § 1983, which raises both
3 federal questions under the Fourth and Fourteenth Amendments of the United States
4 Constitution and supplemental jurisdiction is based on the pendant state law issues
5 stemming from the same nucleus of operative fact.

6 **3. Legal Issues**

7 **PER PLAINTIFFS:** The legal issues are whether the use of deadly force
8 against Decedent was excessive and unreasonable, and whether the involved officers
9 were negligent in their interaction with Decedent, including negligent pre-shooting
10 tactics. Another legal issue is whether the involved officers were on notice, or
11 should have been on notice, that they were dealing with a mentally ill individual who
12 was suffering from a mental health crises, prior to using deadly force against him.
13 Another issue is going to be the nature and extent of the damages, including damages
14 for pain and suffering, loss of enjoyment of life and wrongful death damages.

15 **PER DEFENDANTS:**

16 The legal issues in this matter include as follows: (1) whether the officer's use
17 of force was objectively unreasonable; (2) whether the officers employed negligent
18 tactics leading up to the shooting; (3) whether the officers are entitled to qualified
19 immunity and state law immunities; (4) whether the officers acted with a purpose to
20 harm Decedent that interfered with Plaintiffs' familial relationships with the
21 decedent; (5) whether the officers acted with a specific intent to violate Decedent's
22 constitutional rights; (6) whether the City of Fountain Valley had unconstitutional
23 customs, practices, or policies or inadequate training policies that led to a violation
24 of Decedent's and/or Plaintiffs' constitutional rights, etc.

4. Parties, Evidence, etc.

The parties are Plaintiffs Sean McClintock and Valorie Flores. Defendants are City of Fountain Valley and Does 1-10.

The key documents on the main issues in the case are videos of the incident, including body cam videos, dash cam videos and surveillance video from the nearby businesses, photos of the scene, involved officers' interviews, witness interviews, photos of Decedent's injuries, autopsy report, autopsy photos, Decedent's medical records, including EMS and fire department records.

5. Damages

PER PLAINTIFFS: Plaintiffs believe that a realistic range of provable damages is in excess of \$1,000,000, which includes both wrongful death damages and survival damages, such as pain and suffering damages prior to death, and loss of enjoyment of life.

PER DEFENDANTS:

At this early stage, Defendants have limited information concerning Plaintiffs' damage claims and require discovery to explore the nature and extent of their injuries. Defendants are informed and believed that Decedent harbored suicidal ideations and purposely precipitated the incidents and events underlying this litigation as means to commit suicide by cop.

6. Insurance

None on behalf of Plaintiffs.

Defendant City is permissibly self-insured up to certain limited pursuant to
California Government Code Section 990.

7. Motions

PER PLAINTIFFS: Plaintiffs will seek to amend the complaint to add the shooting officer(s) as named defendants.

1 Dispositive Motions- Plaintiffs do not anticipate filing a dispositive motion
2 and do not believe that any issues or claims can be decided by dispositive motion.

3 Defendants intend to file discovery motions, as necessary, a motion for
4 summary judgment, or in the alternative, summary adjudication of the issues, and
5 pretrial motions.

6 **8. Manual of Complex Litigation**

7 The parties agree that this is not a complex case and it does not require any
8 parts or procedures of the Manual for Complex Litigation pursuant Local Rule 26-
9 1 (a).

10 **9. Discovery**

11 **(a)** The parties will be exchanging initial disclosures on or before
12 September 29, 2025. No other discovery has been propounded to date.

13 **(b-d) Discovery Plan/Discovery Cut-off/Expert Discovery**

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|----|-----|----------------------------------|--------------------|
| 14 | (1) | Initial Disclosures: | September 29, 2025 |
| 15 | (2) | Non-Expert Discovery Cut-off: | April 13, 2026; |
| 16 | (2) | Initial Expert Disclosure: | May 4, 2026; |
| 17 | (3) | Rebuttal Expert Disclosure: | June 1, 2026; |
| 18 | (4) | Expert Witness Discovery Cut-off | June 22, 2026 |

19 The parties do not propose any changes to limitations on discovery and
20 Plaintiffs will stipulate to a protective order regarding the investigation materials.

21 **(e) Settlement Conference/Alternative Dispute Resolution (ADR)**

22 No settlement negotiations have occurred to date. The parties prefer the
23 Court Mediation Panel and have agreed to panel mediator, Richard Copeland.

24 **(f) Trial**

25 **i. Trial Estimate.** Plaintiffs estimate 5-7 trial days and trial will
26 be by jury.

1 Plaintiffs estimate calling approximately 7 witnesses at trial.

2 **ii. Jury Trial.** The parties request a trial by jury.

3 **iii. Consent to Trial Before a Magistrate Judge.** The parties do
4 not consent to try the case before a magistrate judge.

5 **iv. Lead Trial Counsel.** Plaintiffs' lead trial counsel is Dale K.
6 Galipo and second chair is Eric Valenzuela. Defense lead counsel is Mark D.
7 Rutter, and second chair is Kimberly Sarmiento.

8 **(g) Independent Expert or Master.** The parties agree that this is not a
9 case that requires appointing an independent expert or master.

10 **(h) Other Issues.** None on behalf of the Plaintiffs.

11 The parties do not propose any severance, bifurcation, or other ordering of
12 proof at this time.

13
14 DATED: September 8, 2025

LAW OFFICES OF DALE K. GALIPO

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16
17 By /s/ Eric Valenzuela

18 Dale K. Galipo
19 Eric Valenzuela
20 Attorneys for Plaintiffs

21
22 Dated: September 8, 2025

23 By:

24 /s/ Kimberly Sarmiento
25 MARK D. RUTTER
26 KIMBERLY SARMIENTO
27 Attorneys for Defendants